

SECOND REGULAR SESSION

HOUSE BILL NO. 1439

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MYERS, BEHNEN, DAVIS, ROBIRDS, SHOEMYER (9),
MOORE, LEGAN, BERKOWITZ, MAYER (Co-sponsors), NAEGER, LUETKEMEYER, KING, COLEMAN,
CROWELL, RICHARDSON, JETTON, BLACK, HAMPTON, REINHART, COOPER, HUNTER,
HEGEMAN AND BERKSTRESSER.

Read 1st time January 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3184L.01H

AN ACT

To repeal sections 348.430 and 348.432, RSMo, and to enact in lieu thereof two new sections relating to tax credits for contributions to agricultural commodity development.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 348.430 and 348.432, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 348.430 and 348.432, to read as follows:

348.430. 1. The tax credit created in this section shall be known as the "Agricultural
2 Product Utilization Contributor Tax Credit".

3 2. As used in this section, the following terms mean:

4 (1) "Authority", the agriculture and small business development authority as provided
5 in this chapter;

6 (2) "Contributor", an individual, partnership, corporation, trust, limited liability
7 company, entity, or person that contributes cash funds to the authority;

8 (3) "Development facility", a facility producing either a good derived from an
9 agricultural commodity or using a process to produce a good derived from an agricultural
10 product;

11 (4) "Eligible new generation cooperative", a nonprofit cooperative association formed
12 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose
13 of operating a development facility or a renewable fuel production facility;

14 (5) "Renewable fuel production facility", a facility producing an energy source which is

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 derived from a renewable, domestically grown, organic compound capable of powering
16 machinery, including an engine or power plant, and any by-product derived from such energy
17 source.

18 3. For tax year 1999, a contributor who contributes funds to the authority may receive
19 a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143,
20 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148,
21 RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution.
22 The awarding of such credit shall be at the approval of the authority, based on the least amount
23 of credits necessary to provide incentive for the contributions. A contributor that receives tax
24 credits for a contribution to the authority shall receive no other consideration or compensation
25 for such contribution, other than a federal tax deduction, if applicable, and goodwill. A
26 contributor that receives tax credits for a contribution provided in this section may not be a
27 member, owner, investor, or lender of an eligible new generation cooperative that receives
28 financial assistance from the authority either at the time the contribution is made or for a period
29 of two years thereafter.

30 4. A contributor shall submit to the authority an application for the tax credit authorized
31 by this section on a form provided by the authority. If the contributor meets all criteria prescribed
32 by this section and the authority, the authority shall issue a tax credit certificate in the appropriate
33 amount. Tax credits issued pursuant to this section shall initially be claimed for the taxable year
34 in which the contributor contributes funds to the authority. Any amount of credit that exceeds
35 the tax due for a contributor's taxable year may be carried forward to any of the contributor's five
36 subsequent taxable years. Tax credits issued pursuant to this section may be assigned,
37 transferred, or sold. Whenever a certificate of tax credit is assigned, transferred, sold, or
38 otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the
39 name and address of the new owner of the tax credit or the value of the credit.

40 5. The funds derived from contributions in this section shall be used for financial
41 assistance or technical assistance for the purposes provided in section 348.407, to rural
42 agricultural business concepts as approved by the authority. The authority may provide or
43 facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts,
44 but limited to two million dollars per project or the net state economic impact, whichever is less.
45 Loans, equity investments, or guaranteed loans may only be provided to feasible projects, and
46 for an amount that is the least amount necessary to cause the project to occur, as determined by
47 the authority. The authority may structure the loans, equity investments, or guaranteed loans in
48 a way that facilitates the project, but also provides for a compensatory return on investment or
49 loan payment to the authority, based on the risk of the project.

50 6. In any given year, at least ten percent of the funds granted to rural agricultural business

51 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single
52 rural agricultural business concept shall receive more than two hundred thousand dollars in grant
53 awards from the authority. Agricultural businesses owned by minority members or women shall
54 be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the "New Generation
2 Cooperative Incentive Tax Credit".

3 2. As used in this section, the following terms mean:

4 (1) "Authority", the agriculture and small business development authority as provided
5 in this chapter;

6 (2) "Development facility", a facility producing either a good derived from an
7 agricultural commodity or using a process to produce a good derived from an agricultural
8 product;

9 (3) "Eligible new generation cooperative", a nonprofit cooperative association formed
10 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose
11 of operating a development facility or a renewable fuel production facility and approved by the
12 authority;

13 (4) "Employee-qualified capital project", an eligible new generation cooperative with
14 capital costs greater than fifteen million dollars which will employ at least one hundred
15 employees;

16 (5) "Large capital project", an eligible new generation cooperative with capital costs
17 greater than one million dollars;

18 (6) "Member", a person, partnership, corporation, trust, or limited liability company that
19 invests cash funds to an eligible new generation cooperative;

20 (7) "Renewable fuel production facility", a facility producing an energy source which is
21 derived from a renewable, domestically grown, organic compound capable of powering
22 machinery, including an engine or power plant, and any by-product derived from such energy
23 source;

24 (8) "Small capital project", an eligible new generation cooperative with capital costs of
25 no more than one million dollars.

26 3. Beginning tax year 1999, [and subsequent tax years] **and ending December 31, 2002**,
27 any member who invests cash funds in an eligible new generation cooperative may receive a
28 credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo,
29 other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148,
30 RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such member's
31 investment or fifteen thousand dollars.

32 4. **For all tax years beginning on or after January 1, 2003, any member who invests**

33 **cash funds in an eligible new generation cooperative and who owns land in Missouri which**
34 **produces a commodity in an amount to cover such member's obligation to deliver such**
35 **commodity to the eligible new generation cooperative in which the member is investing, or**
36 **who, beginning July 1, 2003, is domiciled in the state of Missouri may receive a credit**
37 **against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, RSMo,**
38 **other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147,**
39 **RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such**
40 **member's investment or fifteen thousand dollars.**

41 **5.** A member shall submit to the authority an application for the tax credit authorized by
42 this section on a form provided by the authority. If the member meets all criteria prescribed by
43 this section and is approved by the authority, the authority shall issue a tax credit certificate in
44 the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed for
45 the taxable year in which the member contributes capital to an eligible new generation
46 cooperative. Any amount of credit that exceeds the tax due for a member's taxable year may be
47 carried back to any of the member's three prior taxable years and carried forward to any of the
48 member's five subsequent taxable years. Tax credits issued pursuant to this section may be
49 assigned, transferred, sold, or otherwise conveyed and the new owner of the tax credit shall have
50 the same rights in the credit as the member. Whenever a certificate of tax credit is assigned,
51 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the
52 authority specifying the name and address of the new owner of the tax credit or the value of the
53 credit.

54 **[5.] 6.** Ten percent of the tax credits authorized pursuant to this section initially shall be
55 offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits
56 offered to small capital costs projects is unused in any calendar year, then the unused portion of
57 tax credits may be offered to employee-qualified capital projects and large capital projects. If
58 the authority receives more applications for tax credits for small capital projects than tax credits
59 are authorized therefor, then the authority, by rule, shall determine the method of distribution of
60 tax credits authorized for small capital projects.

61 **[6.] 7.** Ninety percent of the tax credits authorized pursuant to this section initially shall
62 be offered in any fiscal year to employee-qualified capital projects and large capital projects. If
63 any portion of the ninety percent of tax credits offered to employee-qualified capital projects and
64 large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may
65 be offered to small capital projects. The maximum tax credit allowed per employee-qualified
66 capital project is three million dollars and the maximum tax credit allowed per large capital
67 project is one million five hundred thousand dollars. If the authority approves the maximum tax
68 credit allowed for any employee-qualified capital project or any large capital project, then the

69 authority, by rule, shall determine the method of distribution of such maximum tax credit. In
70 addition, if the authority receives more tax credit applications for employee-qualified capital
71 projects and large capital projects than the amount of tax credits authorized therefor, then the
72 authority, by rule, shall determine the method of distribution of tax credits authorized for
73 employee-qualified capital projects and large capital projects.